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THE HAGUE FOR CWC DEL

E.O. 12958: DECL: 09/10/2018
TAGS: [KTIA](#) [PARM](#) [PREL](#) [CWC](#) [NO](#)
SUBJECT: CHEMICAL WEAPONS CONVENTION: MEMORANDUM OF
UNDERSTANDING WITH NORWAY ON CHALLENGE INSPECTIONS (SBU)

REF: A. OSLO 000769
[1](#)B. STATE 163675
[1](#)C. THE HAGUE 000425

Classified By: ISN/CB Office Robert Mikulak, reasons: 1.4 (B) and (D).

[1](#)1. (U) This is an action request; please see paragraph 9.

OBJECTIVES

[1](#)2. (C-Rel Norway) Department requests Embassy to pursue the following objectives:

-- Work with the Government of Norway to negotiate a Host Country Agreement (HCA) on the conduct of Chemical Weapons Convention (CWC) challenge inspections before a challenge inspection occurs.

-- Set up a meeting between U.S. and Norwegian officials in Oslo on December 8, 2008.

REPORTING DEADLINE

[1](#)3. (U) Embassy should report results of discussions with Norwegian officials by cable to ISN/CB Eugene Klimson NLT October 10, 2008.

POINT OF CONTACT

[1](#)4. (U) Please contact ISN/CB Eugene Klimson at (202) 647-5165 or via email for any further background needed to meet our objectives.

Background

[1](#)5. (C-Rel Norway) The United States and Norway have been negotiating a Chemical Weapons Convention (CWC) Host Country Agreement (HCA) since 1997. In 2005, Norway provided a draft to the United States to which the United States responded in January 2006. In June 2006, efforts to arrange a meeting in Norway between the two countries failed. Since then, Norway has not provided any written comments to the United States on its counterproposals. However, it did indicate in June 2006 that an issue of contention was the designation of the inspected State Party (REF A).

[1](#)6. (C-Rel Norway) In November 2007, Dr. Deborah Ozga of the Joint Staff met briefly with Norwegian representative Ambassador Knut Langeland of the Ministry of Foreign Affairs. During the discussions, Langeland noted the failed attempts

to arrange a bilateral meeting in Oslo to discuss the agreement, but expressed a willingness to discuss the matter in The Hague. The United States suggested that both parties plan to meet for substantive negotiations during the upcoming CWC Review Conference (REVCON) in April 2008 (REF B).

¶7. (U) During the REVCON, Amb. Langeland apologized that he was not prepared to have a discussion, because Norway's lawyer was unable to attend. Aside from noting the preference for avoiding language that would indicate a bias towards a challenge inspection of U.S. assets in Norway, Langeland could not provide any other comments on the text. He requested that the U.S. send a delegation to Norway so they could meet with several Norwegian experts. U.S. Delrep said that due to budget constraints, immediate travel was not very likely. Amb. Langeland noted that they could try to plan around the Executive Council (REF C).

¶8. (U) Washington would like to pursue a visit to Norway, worked around the Conference of States Parties scheduled to take place December 2-5, 2008. The preferred date of a meeting is December 8th.

ACTION REQUEST

¶9. (C-Rel Norway) Drawing on the background and talking points, Embassy Oslo is requested to deliver the talking points in paragraph 10, and the draft HCA text in paragraph 11, to the appropriate Norwegian officials and report the results of these discussions to Washington by October 10, ¶2008.

TALKING POINTS

¶10. (C-Rel Norway) Talking points for delivery:

- The United States appreciates Norway's continued cooperation in working towards the conclusion of a Host Country Agreement (HCA) in the event of a Chemical Weapons Convention (CWC) challenge inspection involving both U.S. and Norwegian assets.

- During the CWC Review Conference in The Hague in April 2008, our representative, Dr. Deborah Ozga, met with Ambassador Knut Langeland from the Ministry of Foreign Affairs to discuss the prospect of continuing our negotiations on a CWC HCA.

- Amb. Langeland requested that the United States send a delegation to Oslo to meet with Ministry representatives. Amb. Langeland also indicated that Oslo would be willing to work around the CWC meetings so as to reduce the travel requirements for U.S. delegates.

- We would like to accommodate Norway's request and recommend that we schedule a visit by Dr. Deborah Ozga following the Conference of States Parties that is scheduled to take place December 2-5, 2008.

- We propose that the meeting be held on Monday, December 8th in Oslo following the Conference of the States Parties.

- In addition, Ambassador Langeland made a preliminary observation on the text that it was biased towards an inspection in Norway. We have updated the text to reflect his comments and added some clarifications.

- We are providing this for your review in anticipation of meeting in December.
(Hand over draft text).

- We look forward to further discussions.

End talking points.

¶11. (C-Rel Norway) Text for Delivery to Norwegian Officials:

Memorandum of Understanding

Memorandum of Understanding between the United States of America (hereinafter the "United States") and the Kingdom of Norway (hereinafter "Norway") concerning procedures for inspections pursuant to Article IX and the Annex On Implementation and Verification (hereinafter the "Verification Annex" or "VA") of the Convention On the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and On Their Destruction, opened for signature on January 13, 1993 (hereinafter the "Convention" or the "CWC"), conducted on the territory of one of the Participants but involving vessels, aircraft, or assets operated and/or owned by the other Participant.

This Memorandum should be interpreted in a manner that is consistent with the Convention and any agreements between Norway or the United States and the Organization for the Prohibition of Chemical Weapons (hereinafter the "Organisation" or "OPCW"). In the event of a conflict between the provisions of the Convention or such other agreements and this Memorandum, the provisions of the Convention or said agreements are to take precedence. Notwithstanding any language used herein, this Memorandum does not create any rights or obligations for the Participants under international law.

¶I. Definitions.

¶A. "Participant(s)" refers to the Government of the Kingdom of Norway (hereinafter referred to as &Norway), the Government of the United States of America (hereinafter referred to as the &United States) or, collectively, to both.

¶B. "Host State Participant" refers to the Participant on whose territory a challenge inspection takes place.

¶C. "Other Participant" refers to the Participant whose assets may be affected by a challenge inspection on the territory of a host State Participant.

¶D. "Other State Party" refers to the Participant that is not designated as the CWC State Party that is being inspected.

¶E. &Government sovereign vessels or aircraft" refers to public vessels (including warships, under customary international law as reflected in Article 29 of the 1982 United Nations Convention on the Law of the Sea, or other ships owned or operated by a state and used only for government noncommercial service), or state aircraft.

II. PROCEDURES CONCERNING INSPECTIONS CONDUCTED ON THE TERRITORY OF THE HOST STATE PARTICIPANT, OR ANY OTHER PLACE UNDER THE HOST STATE PARTICIPANT'S JURISDICTION AND CONTROL, THAT AFFECT THE OTHER PARTICIPANT

The following procedures are to apply in the case where the Host State Participant receives a notification from the Director-General of the Organisation about the Organisation's intent to conduct an inspection, pursuant to Article IX of the CWC and Part X of the Verification Annex, on the territory of the Host State Participant.

¶A. NOTIFICATION PROCEDURES

¶1. When, in the case of a Challenge Inspection (CI), the Inspected State Party (ISP) is notified of the location of an inspection site, and if on the basis of available information, the possibility cannot be ruled out by the ISP that an asset of the other State Party may be affected, the

ISP is to inform the other State Party within two hours of receipt of the notification. Norway should contact the United States Nuclear Risk Reduction Center at 01-202-647-0025, Fax 01-202-647-4892, and the United States European Command Joint Operations Center, 0049-711-680-5065/7, Fax 0049-711-680-5066. The United States should contact Norway through the duty officer at the Ministry of Foreign Affairs at tel. 47 22 24 35 62/63 (direct) or 47 22 24 35 64/ 47 22 24 36 00, fax: 47 22 24 95 80/81, e-mail: saksbehandlervakten@mfa.no.

¶2. After the ISP notifies the other State Party, the other State Party notified should acknowledge receipt of the notification promptly. At a minimum, notification between Participants is to include the information enumerated in section D (32(B)-(F)), Part II and section B (4 and 7), Part X of the Verification Annex. The Participants are to continue to update each other regarding any additional information received from the OPCW prior to the arrival of the inspection team at the point of entry.

¶3. The other State Party is to confirm with the ISP whether equipment or installations belonging to it are present within the inspection site or in the immediate vicinity of the requested perimeter. The Participants are to update each other on the existence of any agreements they might have with the OPCW relevant to this Memorandum without delay following the other State Party's acknowledgement of the CI notification from the ISP.

¶4. If assets of the other State Party are affected by the inspection, the ISP is to advise the inspection team that the inspection affects assets of both Participants. The inspection team may be briefed by facility representatives from both Participants.

¶5. The ISP is to be responsible for inspection activities of all assets, except assets belonging to the other State Party located within the area to be inspected. The ISP is to brief the inspection team on the availability of all facility personnel and records, except those of the other State Party which will be briefed by the other State Party's liaison team.

¶B. LIAISON TEAM PROCEDURES

¶1. The other Participant is to provide a liaison team no later than at the time of arrival of the inspection team at the point of entry. The Host State Participant is to expedite the entry of the other Participant's personnel and their equipment and materiel (possibly including a mobile laboratory), into its territory.

¶2. The liaison team is to travel with the Host State Participant's escort team and be available on short notice to accompany the escort team.

¶3. The liaison team is to have the right at the point of entry to participate in the examination of equipment and supplies that the inspection team brings into the territory of the Host State Participant pursuant to Part II, section C, paragraph 29 of the VA when equipment and installations belonging to the other Participant may be affected by the inspection. The other Participant is to escort the inspection team during inspection of equipment, installations, or assets belonging to the other Participant until the inspection team completes that part of the inspection.

¶4. Unless otherwise stated in this Memorandum, the liaison team is to play no role on the Host State Participant's escort team until equipment, installations, or assets belonging to the other Participant are encountered during an inspection. In cases where a facility belonging exclusively to the Host State Participant (or a part of a facility belonging exclusively to the Host State Participant) is to be inspected, no representative of the other Participant's liaison team is to participate unless invited to do so by the

Host State Participant.

¶5. Equipment or installations belonging to the other Participant are not to be inspected until a representative of the other Participant is available to escort the inspection team in accordance with paragraph B.1. of this Memorandum.

¶6. The ISP is to exercise the rights and obligations of the ISP, such as provisions concerning the designation of sensitive points, shrouding, and other access control, and is to respect the other State Party's positions regarding provisions specified in the VA, Part X, section C: Conduct of Inspections, Managed Access, paragraphs 48 (a)-(g), with respect to the other State Party's equipment or installations.

¶7. Both State Parties retain their full sovereign rights with regard to their government sovereign vessels and aircraft. When government sovereign vessels and aircraft are the object of an inspection, the State Party owning or operating such assets should be the ISP. If the State Party not owning these assets is designated as the ISP, the Governments should advise the OPCW that the government vessel or aircraft is solely under the jurisdiction and control of the other State Party and that, therefore, the other Government should be the ISP regarding that vessel or aircraft.

¶8. Any ambiguity concerning equipment or installations belonging to the other State Party is to be addressed by the other State Party's liaison team. The senior member of the other State Party is to consult with the ISP's escort team leader prior to communicating with the inspection team.

¶9. The other Participant's liaison team is to be furnished transportation, lodging, meals, work space, and, as necessary, medical care or any other emergency assistance by the Host State Participant. The other Participant is to bear the expenses for all of the above services furnished by the Host State Participant to the other Participant's liaison teams.

¶C. INSPECTION SITE PROCEDURES

The following procedures are to apply at inspection sites where equipment, installations, or assets belonging to the other State Party are present:

¶1. The leader of the escort team is to be a representative of the ISP, except when equipment, installations, or assets of the other State Party are inspected in which case the other State Party will lead the escort team.

¶2. The pre-inspection briefing is the responsibility of the ISP and is to be presented by a representative of the ISP. If facilities belonging to both Participants are to be inspected, the pre-inspection briefing is to consist of two parts, with each participant briefing its own facilities. Representatives of both Participants are to be present during both parts of the presentation to answer any questions that might arise concerning equipment and installations at the inspection site. The ISP is to consult with the liaison officers of the other State Party on the implications of any proposals that might be made on an alternative perimeter, and before any decision is made on the final perimeter. The other State Party is to have, if deemed necessary, up to 108 hours from the inspection team's arrival at the point of entry before it provides access to its assets inside the perimeter.

¶3. When the inspection is being conducted at or in the immediate vicinity of a military installation of the Host State Participant, the Host State Participant is to hold the pre-inspection briefing, with representatives of the other Participant briefing any portions of the site in which the other Participant's assets may be affected by the challenge inspection.

14. Upon receipt of the preliminary inspection report ("Preliminary Findings (PF)"), the ISP is to transmit, without delay, a copy of relevant parts of the report to the other State Party that may concern the other State Party's assets.

15. Upon receipt of the draft final inspection report (FIR), the ISP is to exercise the rights of the ISP, pursuant to Part X, D, paragraph 61 of the VA. The ISP will share those parts of the report with the other State Party that are findings related to the other State Party's assets, and submit any proposals made by the other State Party for changes to the draft FIR to the OPCW Technical Secretariat as soon as possible after receipt from the other State Party.

16. The Participants agree that, regardless of the location of the inspection, the language used during the inspection is to be English.

17. The ISP is to be responsible for providing or arranging for all services described in the VA, Part II C, paragraph 26.

II. PROCEDURES CONCERNING INSPECTIONS SOLELY INVOLVING VESSELS, AIRCRAFT, OR ASSETS (FACILITIES, EQUIPMENT, AREAS, BUILDINGS, OR LOCATIONS) OPERATED AND/OR OWNED BY THE OTHER STATE PARTY THAT ARE LOCATED IN HOST STATE PARTICIPANT TERRITORY

1A. In the case of a challenge inspection solely involving vessels, aircraft, or assets operated and/or owned by the other Participant but located in the Host State Participant's territory, the other Participant is to exercise the rights and obligations of the ISP, such as provisions concerning the designation of sensitive points, shrouding, and other access control. The Host State Participant is to facilitate the inspection of such vessels, aircraft, or assets, and provide for the necessary support to the inspection team and to the other Participant. The other Participant is to inform the Host State Participant within two hours of receipt of the CI notification.

1B. Representatives from both Participants are to take part in the perimeter negotiations. Both Participants are to mutually consent to an alternate perimeter before this is offered to the inspection team. The other Participant is to advise the inspection team if the Host State Participant's assets may be within the inspectable area.

1C. If the requested or the alternate perimeter includes Host State Participant assets, the Host State Participant may provide a liaison team to the other Participant's escort team no later than at the time of arrival of the inspection team at the point of entry. The other Participant is to expedite the access of the liaison officers and their equipment and material into its assets.

III. PROTECTION OF INFORMATION

1A. Each Participant is to take all lawful steps available to prevent disclosure of all information exchanged in confidence under this Memorandum and is to also take into account its obligations under the CWC to treat information that it receives from the OPCW in accordance with the level of confidentiality established for that information (CWC Annex on the Protection of Confidential Information, Chapter A, paragraph 4). Any request for information from third countries is to be referred to the originating Participant.

1B. All information and material arising out of Section IV is to continue to be protected in the event of withdrawal by either participant or upon termination of this Memorandum.

IV. SECURITY

1A. Classified information exchanged or generated in connection with this Memorandum is to be marked in one of the following security classification levels:

U.S.	NORWAY
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TOP SECRET	STRENGT HEMMELIG
SECRET	HEMMELIG
CONFIDENTIAL	KONFIDENSIELT
(No equivalent)	BEGRENSET

B. All classified information exchanged or generated in connection with this Memorandum is to be used, transmitted, stored, handled, and safeguarded in accordance with the provisions of the Agreement on the Safeguarding of Classified Information between the Government of the United States and the Government of Norway, entered into by an exchange of notes on February 26, 1970.

C. Norwegian information classified "BEGRENSET" is to be safeguarded in the United States in accordance with the principles laid down in the NATO - Document C-M(2002)49 and supporting directives regarding information classified NATO-RESTRICTED.

IV. SETTLEMENT OF DISPUTES:

Any dispute regarding the interpretation and application of this Memorandum is to be resolved exclusively by means of negotiations and consultations between the Participants.

VI. AMENDMENTS

Amendments to the above procedures may be made at any time by mutual agreement of the Participants.

VII. DURATION AND ENTRY INTO EFFECT

This Memorandum is valid upon the date of the last signature and is to remain valid until terminated either by the mutual agreement of the Participants or by the withdrawal of one of the Participants. A Participant is to give a one-year written notice to the other Participant before such withdrawal.

Signed this-----day of-----, in the English and Norwegian languages.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA	FOR THE GOVERNMENT OF OF THE KINGDOM OF NORWAY
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End draft text.
RICE